

ESTTA Tracking number: **ESTTA409188**

Filing date: **05/13/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Deer Stags Concepts Inc.
Granted to Date of previous extension	05/18/2011
Address	902 Broadway New York, NY 10010 UNITED STATES
Correspondence information	Tracy-Gene G. Durkin Attorney of Record Sterne, Kessler, Goldstein & Fox P.L.L.C. 1100 New York Avenue, N.W. Washington, DC 20005 UNITED STATES tm@skgf.com, tdurkin@skgf.com, iestoest@skgf.com Phone:202-371-2600

Applicant Information

Application No	85100262	Publication date	01/18/2011
Opposition Filing Date	05/13/2011	Opposition Period Ends	05/18/2011
Applicant	B & S Partners, Inc. 6710 Whitestone Rd Baltimore, MD 21207 UNITED STATES		

Goods/Services Affected by Opposition


Class 025. First Use: 2010/01/01 First Use In Commerce: 2010/01/01
All goods and services in the class are opposed, namely: Shoes made in substantial part of deerskin


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3252841	Application Date	12/11/2006
Registration Date	06/19/2007	Foreign Priority Date	NONE
Word Mark	DEER STAGS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1974/04/00 First Use In Commerce: 1974/04/00 Footwear

U.S. Registration No.	3252835	Application Date	11/30/2006
Registration Date	06/19/2007	Foreign Priority Date	NONE
Word Mark	DEER STAGS		
Design Mark			
Description of Mark	The mark consists of right profile of deer with antlers centered between the words DEER and STAGS.		
Goods/Services	Class 025. First use: First Use: 1989/12/15 First Use In Commerce: 1989/12/15 Footwear		

Attachments	77061007#TMSN.jpeg (1 page)(bytes) 77054337#TMSN.jpeg (1 page)(bytes) 2554081opt0.pdf (16 pages)(1204302 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/Tracy Durkin/
Name	Tracy-Gene G. Durkin
Date	05/13/2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Trademark Application No.: 85/100,262

Filed: August 4, 2010

Mark: The logo consists of the word "Deer" in a serif font, followed by a stylized silhouette of a deer's head and antlers, and then the word "Tracks" in a bold, sans-serif font.

Published in the Official Gazette:
January 18, 2011

Deer Stags Concepts Inc.,
Opposer,

v.

B & S Partners, Inc. DBA Pilgrim Shoes,
Applicant.


Opposition No. _____

Atty Docket: 2554.081OPT0/TGD/ICE

NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Madam:

Opposer, Deer Stags Concepts Inc. (hereinafter "Deer Stags" or "Opposer"), a corporation of New York, having its principal place of business at 902 Broadway, New York, NY 10010, U.S.A., believes it will be damaged by registration of U.S. Application No. 85/100,262 for the mark  to B & S Partners, Inc. DBA Pilgrim Shoes (hereinafter "Pilgrim" or "Applicant"), and hereby opposes the same.

Appl. No. 85/100,262
Applicant: B & S Partners, Inc. DBA Pilgrim Shoes
Opposer: Deer Stags Concepts Inc.


The grounds for opposition are:


1. Deer Stags is a corporation of New York, having its principal place of business at 902 Broadway, New York, NY 10010, U.S.A.
2. Opposer is engaged in designing, marketing, distributing, and selling footwear.
3. On information and belief, Applicant is a corporation of Maryland having a place of business at 6710 Whitestone Road, Baltimore, MD 21207, U.S.A.
4. On August 4, 2010, Applicant filed a U.S. Application Serial No. 85/100,262 (the "'262 Application") for the mark **Deer Tracks** for use with "Shoes," in International Class 25.
5. The '262 Application is based on use of the mark under Section 1(a) of the Trademark Act, alleging January 1, 2010 as the date of first use and the date of first use in commerce.
6. On November 19, 2010, Applicant authorized the goods of the '262 Application to be amended to "Shoes made in substantial part of deerskin," in International Class 25.
7. Deer Stags has promoted and sold footwear under the marks DEER STAGS and **DEER STAGS** ("the DEER STAGS Marks"), since at least as early as April 1974 and December 15, 1989, respectively, all of which are dates prior to the filing date, alleged date of first use, and alleged date of first use in commerce of the '262 Application.



Appl. No. 85/100,262
Applicant: B & S Partners, Inc. DBA Pilgrim Shoes
Opposer: Deer Stags Concepts Inc.

8. Use of the DEER STAGS Marks by Deer Stags with footwear has been continuous and uninterrupted since the date of first use of the marks.

9. Deer Stags is the record owner of U.S. Trademark Registration No. 3,252,841 (the "'841 Registration") for the mark DEER STAGS. The mark is registered for use with "footwear" in International Class 25. A copy of the registration certificate and the TARR web server information for the '841 Registration is attached hereto as Exhibit A.

10. Deer Stags is the record owner of U.S. Trademark Registration No. 3,252,835 (the "'835 Registration") for the mark **DEER  STAGS**. The mark is registered for use with "footwear" in International Class 25. A copy of the registration certificate and the TARR web server information for the '835 Registration is attached hereto as Exhibit B.

11. The DEER STAGS Marks and the **Deer  Tracks** mark are confusingly similar in look, sound, meaning and overall commercial impression.

12. The combination of the deer-related image with the leading term DEER of the mark **Deer  Tracks** creates an overall commercial impression that is confusingly similar to Opposer's **DEER  STAGS** mark.

13. The goods of the '262 Application are encompassed within the scope of the goods identified in Opposer's '743 and '835 Registrations.

Appl. No. 85/100,262
Applicant: B & S Partners, Inc. DBA Pilgrim Shoes
Opposer: Deer Stags Concepts Inc.

14. The goods of the '262 Application are encompassed within the scope of the goods with which Deer Stags has been and is using the DEER STAGS Marks.

15. The goods of the '262 Application are highly similar or related to the goods with which Deer Stags has been and is using the DEER STAGS Marks.

16. Upon information and belief, Pilgrim markets, sells, and/or provides footwear bearing the **Deer Tracks** mark through the same or similar channels of trade or to the same group of consumers as the goods identified in the '743 and '835 Registrations, and the goods sold by Opposer under the DEER STAGS Marks.

17. The use and registration of Applicant's **Deer Tracks** mark is likely to cause confusion with Opposer's prior use of its DEER STAGS Marks, and may result in the mistaken belief that Applicant's goods are made by Opposer, or are in some way associated with, or sponsored or endorsed by Opposer.

18. The use and registration of Applicant's **Deer Tracks** mark would cause serious and irreparable harm to Deer Stags and to the goodwill of the business symbolized by Deer Stags' DEER STAGS Marks, in violation of Section 2(d) of the Trademark Act.

WHEREFORE, Deer Stags respectfully requests that this Opposition be sustained and that registration of the mark **Deer Tracks** of U.S. Application No. 85/100,262 be refused.

Appl. No. 85/100,262
Applicant: B & S Partners, Inc. DBA Pilgrim Shoes
Opposer: Deer Stags Concepts Inc.

Deer Stags submits herewith the statutory filing fee of \$300.00 for one (1) class of goods
at \$300.00 per class, as set forth under 37 C.F.R. § 2.6(a)(17).

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Tracy-Gene G. Durkin
Attorney for Opposer
Deer Stags Concepts Inc.

Date: 5/13/11
1100 New York Avenue, NW
Washington, DC 20005
Telephone: (202) 371-2600
Facsimile: (202) 371-2540

Appl. No. 85/100,262
Applicant: B & S Partners, Inc. DBA Pilgrim Shoes
Opposer: Deer Stags Concepts Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of Opposer's NOTICE OF OPPOSITION was served upon Applicant on May 13, 2011, by forwarding the same, via Federal Express, to:

Arkady Altskan
B & S Partners, Inc. DBA Pilgrim Shoes
6710 Whitestone Rd
Baltimore, MD 21207
United States



Tracy-Gene G. Durkin
Attorney for Opposer
Deer Stags Concepts Inc.

Deer Stags Concepts Inc. v. B & S Partners, Inc. DBA Pilgrim Shoes

Notice of Opposition
U.S. Trademark Application No. 85/100,262

EXHIBIT A

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,252,841

Registered June 19, 2007

**TRADEMARK
PRINCIPAL REGISTER**

DEER STAGS

DEER STAGS, INC. (NEW YORK CORPORATION)

1414 AVENUE OF THE AMERICAS

NEW YORK, NY 10019

FOR: FOOTWEAR, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 4-0-1974; IN COMMERCE 4-0-1974.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,936,341, 2,228,434 AND OTHERS.

SER. NO. 77-061,007, FILED 12-11-2006.

JOHN WILKE, EXAMINING ATTORNEY

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-05-12 12:49:43 ET

Serial Number: 77061007 Assignment Information Trademark Document Retrieval

Registration Number: 3252841

Mark

DEER STAGS

(words only): DEER STAGS

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2007-06-19

Filing Date: 2006-12-11

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: 2007-06-19

Register: Principal

Law Office Assigned: LAW OFFICE 104

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2007-06-19

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. DEER STAGS CONCEPTS INC.

Address:

DEER STAGS CONCEPTS INC.

902 BROADWAY

NEW YORK, NY 10010

United States

Legal Entity Type: Corporation

State or Country of Incorporation: New York

GOODS AND/OR SERVICES

International Class: 025

Class Status: Active

Footwear

Basis: 1(a)

First Use Date: 1974-04-00

First Use in Commerce Date: 1974-04-00

ADDITIONAL INFORMATION

Prior Registration Number(s):

1936341

1944901

2228434

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-09-29 - Automatic Update Of Assignment Of Ownership

2007-06-19 - Registered - Principal Register

2007-04-03 - Published for opposition

2007-03-14 - Notice of publication

2007-02-15 - Law Office Publication Review Completed

2007-02-12 - Assigned To LIE

2007-01-10 - Approved for Pub - Principal Register (Initial exam)

2007-01-09 - Assigned To Examiner

2006-12-14 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Tracy-Gene G. Durkin

Correspondent

TRACY-GENE G. DURKIN
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C
1100 NEW YORK AVE NW
WASHINGTON, DC 20005-3934

Deer Stags Concepts Inc. v. B & S Partners, Inc. DBA Pilgrim Shoes

Notice of Opposition
U.S. Trademark Application No. 85/100,262

EXHIBIT B

Int. Cl.: 25

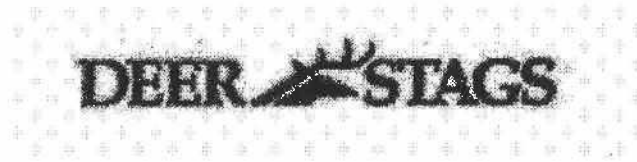
Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,252,835

Registered June 19, 2007

**TRADEMARK
PRINCIPAL REGISTER**



DEER STAGS, INC. (NEW YORK CORPORATION)

1414 AVENUE OF THE AMERICAS

NEW YORK, NY 10019

FOR: FOOTWEAR, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 12-15-1989; IN COMMERCE 12-15-1989.

OWNER OF U.S. REG. NOS. 1,936,341, 2,228,434 AND OTHERS.

THE MARK CONSISTS OF RIGHT PROFILE OF DEER WITH ANTLERS CENTERED BETWEEN THE WORDS DEER AND STAGS.

SER. NO. 77-054,337, FILED 11-30-2006.

JOHN WILKE, EXAMINING ATTORNEY

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-05-12 11:40:16 ET

Serial Number: 77054337 Assignment Information Trademark Document Retrieval

Registration Number: 3252835

Mark



(words only): DEER STAGS

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2007-06-19

Filing Date: 2006-11-30

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: 2007-06-19

Register: Principal

Law Office Assigned: LAW OFFICE 104

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2007-06-19

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. DEER STAGS CONCEPTS INC.

Address:

DEER STAGS CONCEPTS INC.

902 BROADWAY

NEW YORK, NY 10010

United States

Legal Entity Type: Corporation

State or Country of Incorporation: New York

GOODS AND/OR SERVICES

International Class: 025

Class Status: Active

Footwear

Basis: 1(a)

First Use Date: 1989-12-15

First Use in Commerce Date: 1989-12-15

ADDITIONAL INFORMATION

Description of Mark: The mark consists of right profile of deer with antlers centered between the words DEER and STAGS.

Design Search Code(s):

03.07.07 - Caribou; Deer, elk, reindeer, fawns, antelopes, moose, gazelles; Fawns; Gazelle; Impala

03.07.08 - Antelopes; Heads of deer, elk, reindeer, fawns, antelopes, moose, gazelles

03.07.24 - Stylized bovines, deer, antelopes, goats, sheep, pigs, cows, bulls, buffalo, moose

03.13.03 - Horns (of animal) along (not part of heads), antlers

Prior Registration Number(s):

1936341

1944901

2228434

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

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2007-02-12 - Assigned To LIE
2007-01-10 - Approved for Pub - Principal Register (Initial exam)
2007-01-09 - Assigned To Examiner
2006-12-06 - Notice Of Design Search Code Mailed
2006-12-05 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Tracy-Gene G. Durkin

Correspondent

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